

Effective on 12/08/2004.  
Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

**FEE TRANSMITTAL**  
For FY 2005

☒ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT

(\$)

Complete if Known

Application Number 0/745,458

Filing Date 12/21/2000

First Named Inventor J. Moser

Examiner Name Gupta, A.

Art Unit 1654

Attorney Docket No. BJA272C

RECEIVED  
DEC 29 2005  
TECH CENTER 1600/2900

METHOD OF PAYMENT (check all that apply)

☐ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify):

☒ Deposit Account Deposit Account Number: 501693 Deposit Account Name: CeramOptec Industries Inc

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☐ Charge fee(s) indicated below, except for the filing fee

☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17 ☐ Credit any overpayments

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

FEE CALCULATION

1. BASIC FILING, SEARCH, AND EXAMINATION FEES

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES

Fee Description	Fee (\$)	Small Entity Fee (\$)
Each claim over 20 (including Reissues)	50	25
Each independent claim over 3 (including Reissues)	200	100
Multiple dependent claims	360	180

Total Claims

Extra Claims

Fee (\$)

Fee Paid (\$)

- 20 or HP = x =

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims

Extra Claims

Fee (\$)

Fee Paid (\$)

- 3 or HP = x =

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
- 100 =	/ 50 =	(round up to a whole number) x	=	

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): Petition Fee

Fees Paid (\$)

SUBMITTED BY

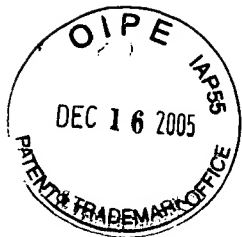
Signature

Registration No. (Attorney/Agent) 36,347

Telephone 413-525-8222

Name (Print/Type) Bolesh J. Skutnik, Esq. JD

Date Dec. 16, 2005



12-19-05 161

BJA272C

1654

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Joerg Moser	)	Examiner: Gupta, Anish
Serial No: 09/745,458	)	Confirmation No: 3984
Filing Date: December 21, 2000	)	Art Unit 1654
For: PHOTSENSITIZERS WITH LIGAND	)	Docket No. BJA272C
TARGETING PROPERTIES FOR	)	
TUMOR THERAPY	)	

\*\*\*\*\*  
I hereby certify that this correspondence is being deposited with the United States Postal Service as express mail, # ED 454435987 US in an envelope addressed to: Commissioner of Patents, Box Petitions, Washington DC 20231 on:

Date : December 16, 2005

By : Bolesh J. Skutnik

Signature :

\*\*\*\*\*

Mail Stop: Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

RECEIVED

DEC 29 2005

TECH CENTER 1600/2900

**PETITION UNDER 37 CFR § 1.181(a)**  
**TO WITHDRAW HOLDING OF ABANDONMENT**

Dear Sir:

In response to the Notice of Abandonment mailed on May 18, 2004 (a copy of which is enclosed), pursuant to 37 CFR §§ 1.181(a) and 1.10(e) Applicant submits this petition for acceptance of timely-filed correspondence and withdrawal of the holding of abandonment in the above-identified application. This is a second attempt to clear this misunderstanding.

A prior Petition was faxed to the USPTO, a copy attached as Exhibit 1 on April 26, 2005. Upon inquiry, it now appears that that Petition was not entered into the record or acted upon. This new Petition follows:

**Facts of the Case:**

A first Office Action was mailed in the above-identified case on October 2, 2003, with a shortened period of response set at one month (i.e., November 2, 2003) and a statutory deadline for response of six months from the date of mailing (i.e., April 2, 2004).

As shown by the attached evidence, Applicant filed a Response to Office Action ("Response") on October 30, 2003, including only a single paper, having 4 pages. The Response was addressed as set out in 37 CFR § 1.10 to Mail Stop: Non-Fee Amendment, Commissioner for Patents, Washington, D.C., 20231, as Express Mail, post-office to addressee, under label number ER487197993US.

The Response included the number of the Express Mail label, as well as a certificate signed by Bolesh J. Skutnik, stating that it was deposited with the U.S. Postal Service on October 30, 2003, as required by 37 CFR § 1.10.

Applicant learned that the Patent and Trademark Office (PTO) had no evidence of receipt of the Response upon receipt of the Notice of Abandonment mailed May 18, 2004, and promptly collected all requisite information and evidence and prepared a letter to the PTO. The letter attached a copy of the Notice of Abandonment, a copy of the Response as filed, a copy of the Express Mail Receipt pertaining thereto showing a date of deposit October 30, 2003, and a copy of the itemized post card showing acknowledgement by the PTO of receipt date of October 30, 2003. The letter was faxed to the USPTO on May 20, 2004 at fax number 703-872-9306, and an auto-reply facsimile was received from the PTO confirming receipt of all 9 pages sent.

Applicant further attempted to contact the Examiner and Supervisory Examiner by telephone on November 2 and 4, 2004, to ascertain the status of the application. On April 14, 2005, while discussing a related application with the Examiner, the Examiner indicated that he had not acted in response to the May 20, 2004 letter to remedy the status of this application.

Evidence Submitted Herewith:

As required by 37 CFR § 1.10(e)(3) Applicant submits herewith a true copy of the Response as filed in the copy of the previous Petition.

In accordance with 37 CFR § 1.10(e)(4), Applicant submits herewith a statement of Bolesh J. Skutnik attesting to the mailing of the Response on October 30, 2003. Applicant further submits herewith a copy of the Express Mail label showing the 'date-in' of October 30, 2003, and of return receipt post card, submitted with the Response and returned from the PTO with indication that the Response was received in the OIPE on October 30, 2003.

Applicant further submits herewith a copy of the entire letter and enclosures sent via facsimile on May 20, 2004, in response to the Notice of Abandonment, as well as the fax

confirmation of receipt sent by the PTO.

Conclusion:

In view of the enclosed evidence of the timely filing and receipt of the Response of October 30, 2003, Applicant respectfully requests that the Commissioner withdraw the holding of abandonment and restore this application to pendency.

The Office is invited to contact Applicant's attorney at the address below if any additional evidence may be required to determine that the Response was timely filed or otherwise to challenge the holding of abandonment.

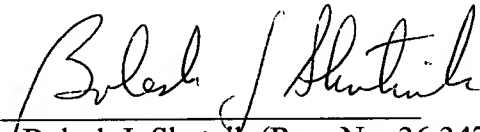
Under 37 CFR 1.181(a) and MPEP 711.03(b), no fee is believed to be required with this submission.

Respectfully submitted,

Date:

Dec 16, 2003

By



Bolesh J. Skutnik (Reg. No. 36,347)

CeramOptec Industries, Inc.

515 Shaker Road

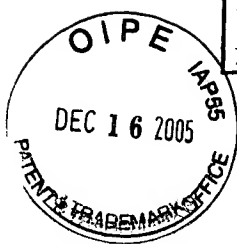
East Longmeadow, MA 01028

Tel: (413) 525-8222

Fax: (413) 525-0611

copy as sent  
4/26/5  
Jen

<b>CERTIFICATE OF FACSIMILE TRANSMITTAL</b>		
I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via facsimile to the <b>Office of Petitions</b> of the U.S. Patent and Trademark Office, at fax number <b>571-273-0025</b> on the date indicated below.		
Date: <b>4/26/5</b>	Name: <b>STANTON COLLIER</b>	Signature: <i>[Handwritten Signature]</i>



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

**RECEIVED**  
DEC 29 2005  
TECH CENTER 1600/2900

In re Application of:	)
Jorg Moser	) Examiner: Gupta, Anish
Serial No.: 09/745,458	)
	) Confirmation No. 3984
Filing Date: December 21, 2000	)
	) Art Unit: 1654
For: <b>PHOTOSENSITIZERS WITH LIGAND</b>	) Docket No. BJA272C
<b>TARGETING PROPERTIES FOR</b>	)
<b>TUMOR THERAPY</b>	)

Mail Stop: Petitions  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

**PETITION UNDER 37 CFR § 1.181(a)**  
**TO WITHDRAW HOLDING OF ABANDONMENT**

Dear Sir:

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Facts of the Case:

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Response was addressed as set out in 37 CFR § 1.10 to Mail Stop: Non-Fee Amendment, Commissioner for Patents, Washington, D.C., 20231, as Express Mail, post-office to addressee, under label number ER487197993US.

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Applicant learned that the Patent and Trademark Office (PTO) had no evidence of receipt of the Response upon receipt of the Notice of Abandonment mailed May 18, 2004, and promptly collected all requisite information and evidence and prepared a letter to the PTO. The letter attached a copy of the Notice of Abandonment, a copy of the Response as filed, a copy of the Express Mail Receipt pertaining thereto showing a date of deposit October 30, 2003, and a copy of the itemized post card showing acknowledgement by the PTO of receipt date of October 30, 2003. The letter was faxed to the USPTO on May 20, 2004 at fax number 703-872-9306, and an auto-reply facsimile was received from the PTO confirming receipt of all 9 pages sent.

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Evidence Submitted Herewith:

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further submits herewith a copy of the Express Mail label showing the 'date-in' of October 30, 2003, and of return receipt post card, submitted with the Response and returned from the PTO with indication that the Response was received in the OIPE on October 30, 2003.

Applicant further submits herewith a copy of the entire letter and enclosures sent via facsimile on May 20, 2004, in response to the Notice of Abandonment, as well as the fax confirmation of receipt sent by the PTO.

Conclusion:

In view of the enclosed evidence of the timely filing and receipt of the Response of October 30, 2003, Applicant respectfully requests that the Commissioner withdraw the holding of abandonment and restore this application to pendency.

The Office is invited to contact Applicant's attorney at the address below if any additional evidence may be required to determine that the Response was timely filed or otherwise to challenge the holding of abandonment.

Under 37 CFR 1.181(a) and MPEP 711.03(b), no fee is believed to be required with this submission.

Respectfully submitted,

Date:

April 26, 2005

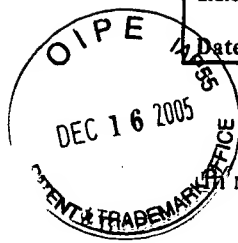
By

Bolesh J. Skutnik  
Bolesh J. Skutnik (Reg. No. 36,347)  
CeramOptec Industries, Inc.  
515 Shaker Road  
East Longmeadow, MA 01028  
Tel: (413) 525-8222  
Fax: (413) 525-0611

CERTIFICATE OF FACSIMILE TRANSMITTAL

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being transmitted via facsimile to the **Office of Petitions** of the U.S. Patent and Trademark Office, at fax number **571-273-0025** on the date indicated below.

Date: 4/26/5 | Name: STANTON COLLIER | Signature: [Signature]



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Re Application of:	)	
Jorg Moser	)	Examiner: Gupta, Anish
	)	
Serial No.: 09/745,458	)	Confirmation No. 3984
	)	
Filing Date: December 21, 2000	)	Art Unit: 1654
	)	
For: PHOTSENSITIZERS WITH LIGAND	)	Docket No. BJA272C
TARGETING PROPERTIES FOR	)	
TUMOR THERAPY	)	

Mail Stop: Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313

STATEMENT OF BOLESH J. SKUTNIK  
IN SUPPORT OF PETITION TO WITHDRAW HOLDING OF ABANDONMENT

Dear Sir:

I, Bolesh J. Skutnik, hereby declare and state as follows:

On October 30, 2003, I assembled the Response to Office Action in the above-identified U.S. patent application, including a four-page Response.

I deposited an envelope containing these papers with the U.S. Post Office of East Longmeadow, Massachusetts, on the afternoon of October 30, 2003, addressed to "Mail Stop: Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450", in an Express Mail package post office to addressee, under Express Mail Label No. ER487197993US.

The Response included a Certificate of Express Mailing under 37 CFR 1.10. I signed and dated this Certificate of Mailing on October 30, 2003, before depositing the Response with the post office.

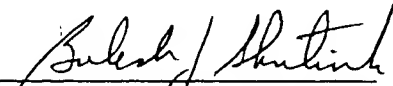


On May 20, 2004, upon receipt of the Notice of Abandonment mailed May 18, 2004, I prepared a letter requesting withdrawal of the holding of abandonment and acceptance of the Response as timely filed. The letter enclosed a copy of the Response, a copy of the Express Mail receipt showing date of deposit, and a copy of the itemized post card showing a receipt date of October 30, 2003.

On November 2 and 4, 2004, I attempted to contact the Examiner and Supervisory Examiner by telephone to confirm the status of this application. On April 14, 2005, in a conversation on a related application, the Examiner indicated that he had not acted in response to the May 20, 2004, letter to remedy the status of this application.

I declare that all statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true; and, further, that these statements were made with the knowledge that willful false statements and the like are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the above-identified application and the patent issuing thereon

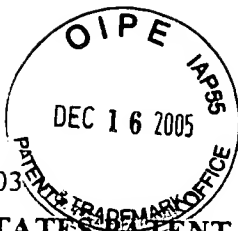
Respectfully submitted,

  
Bolesh J. Skutnik (Reg. No. 36,347)

Date: April 26, 2005

HARTFORD: 638050.01

Appl. No. 10/022,053  
Amdt. dated October 22, 2003  
Reply to Office action of June 25, 2003



272C  
BJA245A

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Applicants : Jörg Moser  
Serial No. : 09/745,458  
Filed : December 21, 2000  
For : PHOTSENSITIZERS WITH LIGAND TARGETING PROPERTIES  
FOR TUMOR THERAPY  
Examiner : Anish Gupta  
Art Unit : 1654

\*\*\*\*\*

I hereby certify that this correspondence is being deposited with the United States Postal Service as express mail, No. ER487197993US in an envelope addressed to: Mail Stop; Non-Fee Amendment, Commissioner of Patents, P.O. Box 1450 Alexandria, VA 22313-1450 on:

Date : October 30, 2003  
By : Bolesh J. Skutnik  
Signature :

\*\*\*\*\*

**ELECTION/RESTRICTION**

Mail Stop: Non-Fee Amendment  
Commissioner of Patents  
Box: Non-Fee Amendment  
Washington, DC 20231

Sir:

In response to the Office Action dated October 2, 2003, having a shortened one month statutory period for response which expires November 2, 2003, we request that you please accept the following remarks as to the above-identified patent application:

Amendments to the Claims are reflected in the listing of claims which begins on page 2 of this paper.

Remarks begin on page 4 of this paper.

This listing of claims will replace all prior versions, and listings, of claims in the application:

**Listing of Claims:**

1.(currently amended) A complex for delivery and application of drugs to cell membranes or a defined distance from the membrane within cells comprising:

at least one parachute structure, having a preselected defined action diameter which hinders said structure from penetrating through a cell membrane; and

at least one therapeutic compound, which can penetrate said cell membrane..

2.(currently amended) A complex according to claim 1, wherein said parachute structure comprises hydrophilic moieties, and said hydrophilic moieties are preferably sugar residues that have said defined action diameter, and wherein said action diameter ~~can be achieved by~~ is defined by the structure of a branching unit to which said hydrophilic moieties are bound and the length and structure of said hydrophilic moities.

3.(original) A complex according to claim 2, wherein said hydrophilic moieties are glucosamine molecules attaching to said branching unit.

4.(original) A complex according to claim 2, wherein said hydrophilic moieties may be monomers or oligomers with specific attachment points to selectins on specific cells so that the complex is targeted to said specific cells.

5.(original) A complex according to claim 1, wherein said parachute structure comprises a hydrophilic moiety and said hydrophilic moiety is a cyclodextrin.

6.(original) A complex according to claim 1, wherein said therapeutic compound is a photosensitizer.

7.(original) A complex according to claim 1, wherein said compound is a chemotherapeutic drug.

8.(original) A complex according to claim 1, wherein said parachute structure is directly bound to said therapeutic compound.

9.(original) A complex according to claim 1, wherein said parachute structure is connected with said therapeutic compound by a spacer, and wherein said spacer is preferably  $\beta$ -aminoacids.

$\gamma$ -amino butyric acid, or poly-aminoacids, and wherein type and number of said spacer used define the distance of said therapeutic agent to cell membranes or its localization within the cell.

10.(original) A complex according to claim 9, wherein said spacer is preferably an aliphatic, aromatic or heterocyclic molecule, or an amino acid sequence.

11.(original) A complex according to claim 10, wherein said amino sequence has an enzyme cleavable breaking point.

12.(original) A complex according to claim 9, wherein using different number or type of said spacers to connect said therapeutic compound and said parachute structure delivers said complex into subcellular compartments at a defined distance from surface of said compartments.

13.(original) A complex according to claim 1, wherein said parachute structures are modified with signals for targeting said complex to a defined tissue or cell type in an organism.

14.(original) A complex according to claim 12, wherein said modified signals contain bridging structures like a biotin-avidin system.

15.(original) A complex according to claim 1, wherein said complex can be used for destruction of cells, and wherein said cells are prokaryotic, preferably bacteria.

16.(original) A complex according to claim 15, wherein said cells are eukaryotic, preferably human and animal cells.

17.(original) A complex according to claim 6, wherein said photosensitizer is close to said membrane during time of activation to render said photosensitizer more effective compared to a similar photosensitizer without said parachute structure.

18.(original) A method for the selective destruction of eukaryotic or prokaryotic cells comprising the steps of:

a. administering a complex, wherein said complex contains at least one parachute structure and at least one photosensitizer; and

b. waiting for a interval to allow said complex to selectively localize at cell membranes or at a defined position within a cell; and

c. irradiating a region where said complex was administered for a defined time interval and intensity to activate said photosensitizer, wherein said time interval and intensity are sufficient to achieve selective destruction of desired cells.

### REMARKS

The examiner has required applicant to elect under 35 USC §121 a single disclosed species for the parachute structure complexed to one therapeutic compound through a linker. In light of prior contact with this examiner in a companion case, it is understood that we have been asked to present a composition which exemplifies the generic claim and which is searchable by the examiner. Before making this election, we are going to amend the claims as originally presented to provide some added detail.

To comply with the requirements of 37 CFR § 1.143 to provide an example covered by the basic independent claim, a parachute structure and a therapeutic component need to be selected. For searching purposes, the **parachute structure** is chosen to be a cyclodextrin, preferably gamma-cyclodextrin, and the **therapeutic component** is chosen to be a photosensitizer with the porphyrin family structure. In the most basic format of the present invention the cyclodextrin is conjugated directly to the porphyrin photosensitizer there is no need for a spacer.

As a first restriction/extension to the above, the search could add the *spacer* species which is chosen as beta-aminoacids or gamma-amino butyric acid.

Should no prior art be found significantly close then the search parameters ought to be expanded to include another kind of parachute structure, wherein two sugar/aminosugar residues, e.g. glucosamine, are bonded to a trifunctional branching unit e.g. triazine trichloride or trimesinic acid trichloride. The therapeutic component remains a porphyrin photosensitizer.

Should an example for the *chemotherapeutic drug* be necessary we chose among those which are membrane active drugs, *Merphalene*.

With these remarks it is believed that the requirements of 35 USC, 37 CFR and the MPEP have been answered and the disclosure and claims are now in condition for examination as one whole invention. Consideration is respectfully requested. An early and favorable response is earnestly solicited. Thank you.

Dated: October 30, 2003

CeramOptec Industries, Inc.  
515 Shaker Road  
East Longmeadow, MA 01028  
Phone: (413) 525-8222

Respectfully submitted,



Bolesh J. Skutnik, PhD, JD  
Reg. No. 36,347  
Attorney for Applicants  
Fax: (413) 525-0611

ER 487197993 US



Customer Copy  
Label 11-B September 2002

**ORIGIN (POSTAL USE ONLY)**

PO ZIP Code	Day of Delivery	Flat Rate Envelope
01028	<input checked="" type="checkbox"/> Next <input type="checkbox"/> Second	<input type="checkbox"/>
Date in		Postage
Mo 10/23/03	<input checked="" type="checkbox"/> 1st Noon <input type="checkbox"/> 3 PM	\$ 13.65
Time in	Military	Return Receipt Fee
<input type="checkbox"/> 10:15 PM	<input type="checkbox"/> 2nd Day <input type="checkbox"/> 3rd Day	
Weight	Int'l Alpha Country Code	COD Fee
lb 3 oz 3		Insurance Fee
No Delivery	Acceptance Clerk Initials	Total Postage & Fees
<input type="checkbox"/> Weekend <input type="checkbox"/> Holiday	Post	\$ 13.65

FROM: (PLEASE PRINT)

PHONE 1

(413) 525-8222

Dr. G. Losh J. Skutnick  
Ceram Optics Industries Inc.  
515 Shaker Rd  
Send Longmeadow, MA 01028

FOR PICKUP OR TRACKING CALL 1-800-222-1811  
www.usps.com

PRESS HARD. You are making 3 copies.

**DELIVERY (POSTAL USE ONLY)**

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Delivery Attempt	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	
Delivery Date	Time	Employee Signature
Mo. Day	<input type="checkbox"/> AM <input type="checkbox"/> PM	

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**PAYMENT BY ACCOUNT**  
Express Mail Corporate Acct. No. \_\_\_\_\_

☐ **NO DELIVERY**  
☐ Weekend ☐ Holiday

**TO: (PLEASE PRINT)** PHONE 1 \_\_\_\_\_

Mail Stop Norris Anderson  
Commissioner of Probate  
P.O. Box 1470  
Alexandria, VA

ZIP + 4  
0 1 2 3 4 5 6

WARRANT OF SIGNATURE (Domestic Only)  
The undersigned hereby warrants that the signature of the addressee of the enclosed article can be legibly secured by the post office delivery employee's signature pen and ink.

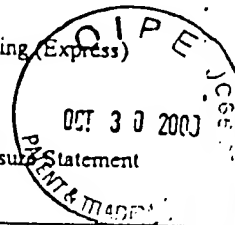
Customer Signature \_\_\_\_\_

Ser./Reg./Pat. No. 09/745458 File No. BVA272C By B. J. Skutnick  
Title/Mark Photosensitizer with Ligand Targeting Properties  
In the Matter of the Application of J. Huse

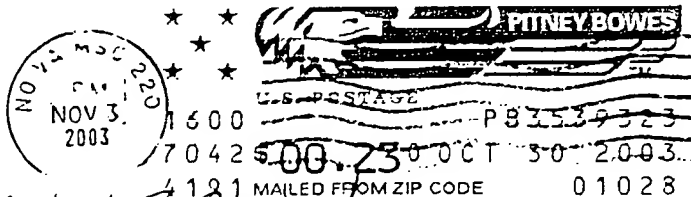
The following, due 11/2/03 in the U.S. Patent & Trademark Office, was received in the Patent & Trademark Office Mail Room on the date stamped hereon:

- ☐ Affidavit or Declaration  
☒ Response to Office Action  
☐ Extension Request  
☐ Application for Patent Including  
           Pages Specification        claims  
    ☐ Declaration or ☐ Oath ☐ Abstract  
Application for Registration/Renewal Including  
    Specimens/Facsimiles  
☐ Assignment  
☐ Brief  
☐ Check No.        For \$

- ☐ Drawings        Sheet(s) (Formal)  
☐ Transmittal  
☐ Maintenance Fee  
☐ Certificate of Mailing (Express)  
☐ Notice of Appeal  
☐ Petition  
☐ Power of Attorney  
☐ Information Disclosure Statement  
☐ Priority Document



Mailed: Express Mail 10/30/03  
6248719799361



Dr. Bolek J. Skutnick  
Ceram Optec Industries, Inc.  
515 Slusher Rd.  
East Longmeadow, MA 01028

102A+3126



# CERAMOPTEC®

---

Date: May 20, 2004

Case Docket No. BJA272C

Mail Stop Non-Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**VIA FACSIMILE to (703) 872-9306**

**(9 pages)**

RE: **Request to Enter Timely Filed Reply to Office Action Mailed October 30, 2003**  
Application No.: 09/745,458  
Applicant: Jorg G. Moser  
Filing Date: December 21, 2000  
Title: Photosensitizers with Ligand Targeting Properties for Tumor Therapy

Dear Sir or Madam:

This letter is in response to a Notice of Abandonment mailed May 18, 2004 for failing to timely reply to the Office Action mailed on October 2, 2003. A copy of the Notice is enclosed. Applicant did timely file a reply (a copy of which is enclosed) to that Office Action on October 30, 2003, and thus requests that the enclosed reply be accepted as timely filed and be given due consideration.

A copy of the Express Mail receipt is enclosed, showing that the reply was deposited in the U.S. Post Office on October 30, 2003. A copy of the itemized post card accompanying that reply, showing acknowledgement by the USPTO of a receipt date of October 30, 2003, is also enclosed.

I trust that this showing is sufficient to demonstrate that a reply to the above Office Action was timely filed, and that the holding of abandonment should therefore be withdrawn. Applicant respectfully requests that the holding of abandonment be withdrawn and that the enclosed reply be accepted as timely filed.

Sincerely,



Bolesh J. Skutnik, PhD, JD  
Reg. No. 36,347  
Attorney for Applicants



## Auto-Reply Facsimile Transmission



TO:

Fax Sender at 413 525 0611

Fax Information

Date Received:

5/20/2004 3:55:41 PM [Eastern Daylight Time]

Total Pages:

9 (including cover page)

**ADVISORY:** This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received  
Cover  
Page

=====>

60/1818 P 1190 525 117  
East Longmeadow, MA 01028  
CERAMOPTEC Industries, Inc.  
515 Shaker Road  
FAX 413-525-0611  
413-525-8223

Bolesh J. Skutnik, PhD, JD  
Reg. No. 36,347  
Attorney for Applicants

Sincerely,  
*Bolesh J. Skutnik*

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RE: Request to Rebut Timely Filed Reply to Office Action Mailed October 30, 2003  
Application No.: 09/745,458  
Applicant: Jorg C. Moser  
Filing Date: December 21, 2000  
Title: Photosensitizers with Ligand Targeting Properties for Tumor Therapy

Dear Sir or Madam:

VIA FACSIMILE to (703) 872-9306  
(9 pages)

Case Docket No. BJA272C  
Date: May 20, 2004  
Mail Stop Non-Fee Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

CERAMOPTEC®

FACE 18 \* RCVD AT 5/20/2004 3:55:41 PM [Eastern Daylight Time] \* SVR:USPTO-EFXRF-1/0 \* CHN:572506 \* CSID:4135250611 \* DURATION(Not-Null):00:00:00

\*\*\*\*\* -IND. XMT JOURNAL - \*\*\*\*\* DATE MAY-20-2004 \*\*\*\*\* TIME 16:17 \*\*\*\*\*

DATE/TIME = MAY-20-2004 16:13  
JOURNAL No. = 04  
COMM. RESULT = OK  
PAGE(S) = 009/009  
DURATION = 00:02:38  
FILE No. = 871  
MODE = MEMORY TRANSMISSION  
DESTINATION = 17038729306  
RECEIVED ID =  
RESOLUTION = STD

-BIOLITEC-

\*\*\*\*\* -BIOLITEC

- \*\*\*\*\* -

413 525 0611- \*\*\*\*\*



# UNITED STATES PATENT AND TRADEMARK OFFICE

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www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/745,458	12/21/2000	Jorg G. Moser	BJA272C	3984

7590 05/18/2004  
BOLESH J. SKUTNIK PhD,JD  
515A Shaker Road  
East Longmeadow, MA 01028

EXAMINER

GUPTA, ANISH

ART UNIT PAPER NUMBER

1654

DATE MAILED: 05/18/2004

3

Please find below and/or attached an Office communication concerning this application or proceeding.

# Notice of Abandonment

Application No.

09/745,458

Examiner

Anish Gupta

Applicant(s)

MOSER, JORG G.

Art Unit

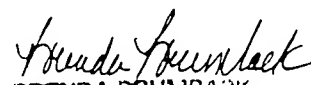
1654

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

This application is abandoned in view of:

1. ☒ Applicant's failure to timely file a proper reply to the Office letter mailed on 02 October 2003.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection. (A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☒ No reply has been received.
2. ☐ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☐ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:



  
BRENDA BRUMBACK  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 1600

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.

S. Patent and Trademark Office  
TOL-1432 (Rev. 04-01)

Notice of Abandonment

Part of Paper No. 3